

Lie Tests Ignore Rule on Police Quiz

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Washington's Police Department and the U.S. Attorney's Office are excluding any lie detector interrogation time from the recently established suspect quizzing limit of three hours.

Officials revealed yesterday that they discount time at headquarters taken to administer the polygraph test, which often lasts three hours or more and includes exhaustive questioning.

The three-hour maximum on questioning was put into effect last August through an order from Police Chief John B. Layton, after the Justice Department and the U.S. Attorney's Office studied the issue in light of the famed Mallory decision.

At that time, Layton's order stated that "arrested persons may be questioned in a reasonable and non-coercive manner concerning their knowledge of any alleged offense."

The total period of actual questioning, exclusive of interruptions, should be limited to three hours except where an arrested person consents in writing to a polygraph examination.

Layton noted in his order that it was based on a letter that July from then-U.S. Attorney David C. Acheson. However, Acheson's letter said that polygraph time may not count "where a suspect requests a polygraph examination."

Except for the reference to "requests," the letter did not elaborate about time spent on polygraph testing.

Police have since been operating under the theory that the voluntary taking of a test may take place before a formal arrest if the person agrees to the exam.

Queried about the procedure yesterday, Layton replied that "as long as they are willing

to talk and answer questions voluntarily, the police can question them as long as they want, if the person did not express the desire to leave or want to stop the interrogation."

In the Mallory case, Andrew R. Mallory was arrested between 2 and 2:30 p.m. on suspicion of rape. During the afternoon and evening he was questioned by police until he finally dictated a confession at about midnight.

The Supreme Court later threw out the confession, on grounds that it had been the fruit of an over-long delay between his arrest and arraignment.

In a case this week, involving the murder of Mrs. James F. Mitchell Tuesday morning, Harry Gross—now charged with the offense—spent from 6 a.m. to 11:35 a.m. Wednesday in the company of police officers.

He was first approached at his apartment by two detectives who asked him if he would help them out with any information he might have that they could use, police officials said.

The detectives reported that Gross agreed to come to headquarters and arrived with them at 7 a.m. After 1 hour and 20 minutes' questioning, they said, Gross agreed to take the polygraph test, which lasted the rest of the morning.

It was after this test that Gross was formally arrested, booked and charged, police said. Homicide Squad Capt. George Donahue noted that during the interrogation police were in constant contact with the U.S. Attorney's office for advice.

U.S. Attorney David G. Bress refused to comment on the case.

Justice Department attorneys who helped draft the three-hour order maintained that polygraph tests take a long time to administer if they are to be effective and can only work if they are taken on a voluntary basis.